



**February 27, 2007**

**TO: Members of the House Labor Committee**

**FROM: Ken Fletcher, Legislative Director**

**RE: Support for HR 21 – A Resolution in Support of the Federal Employee Free Choice Act**

America's working people are struggling to make ends meet, and our middle class is disappearing. The best opportunity working men and women have to get ahead is by uniting with co-workers to bargain with their employers for better wages and benefits.

But the current labor law system is broken. Corporations routinely intimidate, harass, coerce and even fire people who try to organize unions – and today's labor law is powerless to stop them. Every day employers deny working people the freedom to make their own choice about whether to have a union:

- Employees are fired in one-quarter of private-sector organizing campaigns;
- 78 % of private employers require supervisors to deliver anti-union messages to the workers whose jobs and pay they control;
- 92% of employers force employees to attend mandatory closed-door meetings against the union;
- Even after workers successfully form a union, one-third of the time they are not able to get a contract.

The National Labor Relations Act states: "Employees shall have the right to self organization to form, join, or assist labor organizations.." It was designed to protect employee choice on whether to form a union, but it has been turned upside down.

The current system is not like any democratic election held anywhere else in our society. Employers have turned the NLRB election process into management-controlled balloting – the employer has all the power, controls the information workers can receive and routinely poisons the process by intimidating, harassing, coercing and even firing people who try to organize unions. On top of that, the law's penalties are so insignificant that many companies treat them as just another cost of doing business. By the time employees vote in an NLRB election, if they can get to that point, a free and fair choice isn't an option. Even in the voting location, workers do not have a free choice after being

browbeaten by supervisors to oppose the union or being told they may lose their jobs and livelihoods if they vote for the union.

Human Rights Watch, a respected international organization that investigates human rights abuses in 70 countries, has concluded that “freedom of association is a right under severe, often buckling pressure when workers in the United States try to exercise it.”

This is an urgent crisis for workers, blocking their free will and their ability to get ahead. The issue before us is how can we restore the freedom of working people to make their own decision about joining together to bargain for better wages and working conditions. Until working people can exercise a free choice, they will continue to lose power in our country, living standards will continue to suffer and our middle class will continue to decline. Workers need a real choice. They don’t have it now.

That’s why we support The Employee Free Choice Act ( HR 800). This bill will level the playing field for employees and employers and restore to working people the freedom to improve their lives through unions.

**The Employee Free Choice Act does three things:**

**1 It strengthens penalties for companies that illegally coerce or intimidate employees in an effort to prevent them from forming a union.**

- HR 800 calls for civil fines of up to \$20,000 per violation against employers found to have willfully or repeatedly violated employees’ rights during an organizing drive;
- It increases the amount an employer is required to pay when an employee is discharged or discriminated against during an organizing drive or first contract drive to three times back pay;
- It requires the NLRB to seek a federal court injunction against an employer whenever there is reasonable cause to believe the employer has discharged or discriminated against employees, threatened to discharge or discriminate against employees or engaged in conduct that significantly interferes with employee rights during an organizing or first contract drive. Authorizes the courts to grant temporary restraining orders or other appropriate injunctive relief.

**2 It brings in a neutral third party to settle a contract when a company and a newly certified union cannot agree on a contract after three months.**

HR 800 provides that if an employer and a union are engaged in bargaining for their first contract and are unable to reach agreement within 90 days, either party may refer the dispute to the Federal Mediation and Conciliation Service (FMCS) for mediation. If the FMCS is unable to bring the parties to agreement after 30 days of mediation, the dispute will be referred to arbitration, and the results of the arbitration shall be binding on the parties for two years.

**3 It establishes majority sign-up, meaning that if a majority of the employees sign union authorization cards, validated by the National Labor Relations Board, a company must recognize the union.**

HR 800 provides for certification of a union as the bargaining representative if the NLRB finds that a majority of employees in an appropriate unite has signed authorizations designating the union as its bargaining representative. It requires the NLRB to develop model authorization language and procedures for establishing the authenticity of signed authorizations. It would not eliminate union elections – if 30% of employees at a workplace want an election on union representative, they still can have one.

The Employee Free Choice Act has the support of hundreds of members of Congress of both parties, academics and historians, civil and human rights organizations such as the NAACP and Human Rights Watch, most major faith denominations and 69% of the American public. It's also supported by many states and cities, include the City of Detroit.

The Employee Free Choice Act will assure that workers who want collective bargaining are able to have it. With a free choice to join unions, working people can bargain for better pay, health care and pensions and build a better life for their families.

That is why we ask you to vote “Yes” on House Resolution 21 and add the Michigan House of Representatives to the growing list of supporters of the Employee Free Choice Act.

Thank you.

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INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA – UAW

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February 27, 2007

TO: Members of the House Labor Committee

FROM: Nadine Nosal, Legislative Coordinator  
Michigan CAP, International Union, UAW

SUBJECT: House Resolution No. 21 – Employee Free Choice Act

The International Union, UAW, represents approximately 400,000 active and retired members and their families in both the private and public sectors across Michigan.

The UAW urges you to support House Resolution No. 21, which would memorialize the Congress and President of the United States to enact H.R. 800, the Employee Free Choice Act (EFCA).

If enacted, EFCA would restore to American workers the freedom to decide for themselves – without employer intimidation – to join together in a union and bargain for better wages, benefits, and a voice on the job.

Thomas Jefferson once said, "Single acts of tyranny may be ascribed to the accidental opinion of the day; but a series of oppressions, begun at a distinguished period, and pursued unalterably through every change of ministers (administrators) too plainly proves a deliberate, systematic plan of reducing us to slavery."

The National Labor Relations Act (NLRA) was enacted in 1935 to protect the rights of workers to join unions and to bargain collectively with their employers. Unfortunately, over the years these rights have been dramatically eroded because of aggressive and intimidating employer anti-union campaigns, ineffective NLRA penalties for employers who violate workers rights, and lengthy employer appeals of National Labor Relations Board (NLRB) cases in the courts. As a result, it is now increasingly uncommon for workers to successfully organize by going through an NLRB-conducted election. When workers do choose to be



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February 27, 2007  
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represented by a union, moreover, employers use a variety of legal and illegal tactics to keep the union from obtaining a first contract.

EFCA would help restore the worker protections of the NLRA by : (1) requiring employers to bargain with a union when a majority of workers sign valid authorization cards; (2) providing for mediation and arbitration for a first contract; and (3) increasing penalties for employer violations of the NLRA. Each of these provisions is explained briefly below.

The UAW believes that the right to form a union is a fundamental human right and an essential element of a free and democratic society. The protections that the NLRA was intended to afford to workers have been so weakened that immediate action is needed to restore them. For these reasons, the UAW urges the Committee to approve House Resolution No. 21 in support of the Employee Free Choice Act.

Thank you for considering our views on this priority issue.

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cc: Dick Long  
Regional Directors  
MI CAP Staff





N.L.R.B. Case #  
7-CA-49793 - Union Observer Fired - pending  
7-CA-50155 - Illegal Lay-offs - pending

**Teamsters Local Union No. 243**

**And**

**Safeway Transportation**

**Organizing Drive**

January 31, 2006 Teamsters Local 243 files for Representation Election with the NLRB. Election date was set for Friday, March 10, 2006 from 5:30 a.m. – 5:55 a.m. and 8:00 a.m. – 10:30 a.m.

On March 10, 2006 the election is held. Safeway Transportation hired an anti-union consultant to be their representative during the election. During the election Local 243 officials were talking to employees away from the polling area. The employer's consultant sees the union officials outside on the curb and tells his client to hide behind a vehicle and take their pictures. An Employer representative does as told. Employees talking to the Union officials see this going on and run away yelling "I don't want my picture to be taken".

After the ballots are counted. The vote total was fifty one (51) yes and fifty one (51) no with one (1) challenged ballot. At the time the votes were counted Union officials found anti-union literature five (5) to six (6) feet from the polling booth. The material was reported to the board agent at that time and the board retained the material.

On March 17, 2006 Local 243 files several objections with the NLRB.

1. On Wednesday, March 8, 2006 the employer held a meeting in the maintenance shop area. When employees tried to leave the meeting before it was over the Company locked the doors making it impossible to leave.
2. On Thursday, March 9, 2006 the Employer knowingly sent an union supporter on a charter trip to Indiana for two (2) days in order to deny him the right to vote.
3. On Friday, March 10, 2006 the Company violated the act by electioneering at the polling place during the election.
4. On Friday, March 10, 2006 the Company took pictures of employees who talked to Union Representatives.



5. The owner of the Company made a statement stating I know who supported the Union and there is going to be hell to pay for all those people.

On April 5, 2006 the NLRB found merit to Local 243's objections and ordered a hearing to be held on May 1, 2006.

The hearing was held on May 1, 2006 and the hearing officers ruling was given on May 26, 2006. The board overruled one (1) of the objections, the union withdrew three (3) and one (1) objection was found creditable. The hearing officer ruled that the first election be set aside and re-run election be held.

The Company appealed the decision to Washington, D.C.

From May 26, 2006 to present day the employer is still intimidating employees and violating their rights afforded to them under the Labor Relations Act.

In August of 2006 a charge was filed for the Employer cutting a Union supporters pay by four dollars (\$4.00) an hour. After several months of investigation by the board, it ruled that it was ok for the Employer to do this merely because a employee of the Company complained that the other employee was making more money. The Union withdrew the charge.

On September 27, 2006 another charge was filed for the Company laying off Union Supporters and within one (1) week hired new employees off the street. After the charges were filed with the board, the Employer tried to recall four (4) employees affected by the layoff, however the four (4) employees had lower seniority and none were Union supporters. After a lengthy investigation by the board it ruled that the charge was too broad because it could not prove that the employer knew who was supporting the Union and asked that the charge be withdrawn and re filed at a later time.

After more investigation by Union officials it was found that the owner's secretary approached some individuals and asked them how they felt about the Union and if they would support the Union. It was also found the same secretary was holding anti-union meetings for the Employer. Local 243 have re filed the charge and it is currently under investigation by the board.

On November 28, 2006 another charge was filed with the NLRB because the Company fired the Unions observer for his Union activities. The employer stated that he only had a copy of his medical documentation and not the original. The Company in the past allowed copies but then changed their mind and never informed any of the employees. During the Boards investigation other individuals had copies and were never fired. The NLRB found there is merit to this charge and has issued a complaint. The hearing was scheduled for February 6, 2007 but was postponed because another charge was filed. After the board decided to go to complaint the Employer went back and fired



another employee for the same thing. However, the second employee was a witness who gave an affidavit to the board on the Unions observer's behalf. The second charge is still under investigation with the board.

On January 31, 2007 the National Labor Relations Board in Washington, D.C. rendered their decision on the first election. They ruled that the first election be set aside and a re-run election be held on March 9, 2007.

During the first election one of the Unions platforms was the employer took away employees paid holidays. After the board issued its ruling on January 31, 2007 the Employer decided to give the employees back their paid holidays. Once again the Employer violated the act and charges are pending. Also since January 31, 2007 the Employer is going to all the Employees and asking them how they feel about the Union and are they supporting it. Charges are also pending on this action.



## Poland: Solidarity -- The Trade Union That Changed The World

By Jeffrey Donovan



**Lech Walesa (L) with former Solidarity activist Bogdan Lis**

Twenty-five years ago next Wednesday -- 31 August 1980 -- unemployed Polish electrician Lech Walesa struck a major blow to Soviet communism when, after leading a strike at the Lenin Shipyard in Gdansk, he announced the official birth of the Solidarity independent trade union. Solidarity went on to play a central role in the demise of communism across the Soviet bloc, changing forever the course of history in Europe.

Prague, 24 August 2005 (RFE/RL) -- The strike that changed the world began around dawn on 14 August 1980.

Some 17,000 workers seized control of the Lenin Shipyard in Gdansk to protest, among other things, a recent rise in food prices. Their leader, Lech Walesa, had narrowly avoided arrest by secret police that morning, and had managed to scale the shipyard gate and join the workers inside. Soon, workers in 20 other area factories joined the strike in solidarity.

Seventeen days later, after negotiations with Poland's Communist government, the burly, mustachioed Walesa appeared before the workers in the shipyard with an historic message: "We have an independent, self-governing trade union! [crowd cheers] We have the right to strike!"

Walesa and Poland's first deputy prime minister, Mieczyslaw Jagielski, had signed a deal granting the workers their major demands: the right to organize freely and to strike. Those were rights accorded under conventions by the International Labor Organization, of which Poland was a signatory. But this was the first time that any Communist government had put them into practice.

The workers had other demands, such as better wages and benefits, posted in a list of "21 postulates" on the shipyard door. But none was as crucial as the right to organize and strike.

Solidarity's underground efforts were also greatly aided by financial help from American trade union as well as moral support from Pope John Paul II.

Radek Sikorski, a former deputy foreign and defense minister of postcommunist Poland, was a high school student at the time of the Gdansk accord. He recalled the famous day in an interview with RFE/RL.

"[There was] tremendous hope and a kind of electricity between people. You know, it's said that we Poles become a nation once a generation, just like we did recently when the pope died, and that was one of those moments when, suddenly, millions of people felt that they wanted the same thing, which was free trade unions to represent them against the [Communist] Party. It gave people hope that perhaps communism could be reformed. We now know that it couldn't," Sikorski said.

In September 1980, the Independent Self-Governing Trade Union Solidarity -- or NSZZ Solidarnosc -- was officially formed. Over the next 15 months, the union's membership grew from 1 million to 9 million people -- a quarter of the country's population.

But across the Russian border, Poland's Soviet masters were growing increasingly alarmed. And in early December 1981, the Warsaw Pact issued a statement at a summit in Moscow stating "fraternal solidarity and support" with Poland's communist leaders in overcoming what it called the country's "present difficulties."

Days later, on 13 December, General Wojciech Jaruzelski, the Polish prime minister, declared martial law and outlawed Solidarity. The military, in a plan hatched over the previous months, arrested most of Solidarity's leaders, including Walesa.

Walesa would spend nearly a year in jail. And for the next seven years, he would be under constant watch and harassment by secret police. When he won the Nobel Peace Prize in 1983, he sent his wife to collect the award in Oslo fearing he would not be let back into the communist country.

In the long, dark period leading up to the radical changes of 1989, Solidarity worked in the underground. But, as

Sikorski recalls, it never wavered from one its key principles -- nonviolence.

"It was a peaceful movement which actually realized all its objectives and more. So I think the path of nonviolence is certainly an important Solidarity legacy. And if you look at what happened in other countries -- in the Czech Republic, and more recently in Serbia or in Ukraine -- that message has been successfully imitated," Sikorski said.

Solidarity's underground efforts were also greatly aided by financial help from American trade unions, as well as moral support from Pope John Paul II.

The pope published a major text -- the encyclical "On Human Work" -- and met with Walesa in 1983 for talks that made international headlines. Both acts, as well as the strategic partnership between the Polish Catholic Church and Solidarity, lent powerful legitimacy to the movement.

Bronislaw Geremek, now a member of the European Parliament, was one of the leading intellectuals of the Solidarity movement. In an interview with RFE/RL, Geremek noted that Solidarity's success was a result of a "new human relationship" in Polish society among church leaders, workers, farmers and intellectuals.

"One should see this phenomenon in the larger context. This context is first of all the lesson of the 1979 visit of Pope John Paul to Poland. Not only the message of John Paul -- 'Don't be afraid,' which was a very powerful message -- but also the experience of the organization of the pope's visit. The organization was assured, in all cities in which the pope paid a visit, by civilians -- by a special guard formed by workers, people from the intelligentsia -- [who were] able to organize themselves," Geremek said.

Further moral support came from Western governments, in particular the United States and Britain, which along with international agencies refused to grant debt-ridden Poland economic aid until it legalized Solidarity.

The movement got a major morale boost in November 1988, when Jaruzelski hosted British Prime Minister Margaret Thatcher. A fierce anticommunist, Thatcher lashed out at Jaruzelski at a state banquet, saying Poland's depressed economy would improve only after freedom and liberty were restored.

She also visited outlawed Solidarity's leaders in Gdansk, telling 5,000 workers: "Nothing can stop you." And at a dinner with union leaders, Britain's "Iron Lady" urged them to forge a practical plan to freedom.

"How do you see the process from where you are now to where you want to be? Because whatever you want to do, it's not only what you want to do, but how, in a practical way, you see it coming about," Thatcher said.

But the reality was that Solidarity, and Polish society, had already found their way.

Faced with intense social and economic pressure, Jaruzelski finally agreed to talks with Solidarity in early 1989. Two months later, after historic roundtable talks, the two sides signed a 400-page agreement on sweeping political and economic reforms that officially recognized Solidarity.

In June 1989, in the first free elections ever in the communist bloc, Solidarity won the maximum number of seats allowed in both houses of parliament. And with two smaller parties, it formed the first non-Communist government in the Soviet bloc.

Six months later, the Berlin Wall came crumbling down.



The survival of Solidarity was an unprecedented event not only in Poland, a satellite state of the USSR ruled (in practice) by a one-party Communist regime, but the whole of the Eastern bloc. It meant a break in the hard-line stance of the communist Polish United Workers' Party, which had bloodily ended a 1970 protest with machine gun fire (killing dozens and injuring over 1,000), and the broader Soviet communist regime in the Eastern Bloc, which had quelled both the 1956 Hungarian Uprising and the 1968 Prague Spring with Soviet-led invasions. Solidarity's influence led to the intensification and spread of anti-communist ideals and movements throughout the countries of the Eastern Bloc, weakening their communist governments. The 1989 elections in Poland where anti-communist candidates won a striking victory sparked off a succession of peaceful anti-communist revolutions in Central and Eastern Europe<sup>[2]</sup> known as the Revolutions of 1989 (*Jesień Ludów*). Solidarity's example was in various ways repeated by opposition groups throughout the Eastern Bloc, eventually leading to the Eastern Bloc's effectual dismantling, and contributing to the collapse of the Soviet Union, in the early 1990s.

## Organization

Formed in 1981, the union's supreme powers were vested in a legislative body, the Convention of Delegates (*Zjazd Delegatów*). The executive branch was the National Coordinating Commission (later renamed the National Commission *Komisja Krajowa*). The Union had a regional structure, comprising 38 regions (*region*) and two districts (*okręg*).<sup>[5]</sup>

Currently, Solidarity has more than 1.1 million members. National Commission of Independent Self-governing Trade Union is located in Gdańsk and is composed of Delegates from Regional General Congresses.

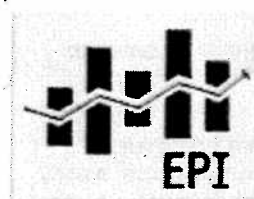


"High Noon, 4 June 1989"  
Solidarity Citizens' Committee  
election poster by Tomasz  
Sarnecki



Gdańsk on 25th anniversary of Solidarity, summer 2005.





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RESEARCH FOR BROADLY SHARED PROSPERITY



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## Viewpoints

Opinion pieces and speeches by EPI staff and associates.

[ THIS OP-ED ORIGINALLY APPEARED IN *THE SACRAMENTO BEE* ON OCTOBER 26, 2006. ]

### The declining rights of workers

By [Ross Eisenbrey](#)

What you don't know actually can hurt you. The Bush administration's newest labor law rulings probably aren't on your radar screen, but they should be. They promise to damage the economic prospects of middle and working class Americans for decades to come.

The National Labor Relations Act declares that it is our national policy to reduce the inequality of bargaining power between corporations and employees "by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization and designation of representatives of their own choosing."

But you'd never recognize this policy in the Bush-dominated National Labor Relations Board's newest decisions, which will deny millions of workers the right to designate their own representatives and engage in collective bargaining.

In the key case, Oakwood Healthcare, the board classified a dozen nurses as nonemployee supervisors and kicked them out of their union, which was bad enough. But it also told the hospital how to go about reclassifying another 112 nurses as supervisors, merely by making minor scheduling changes.

By putting "rotating charge nurses" on a regular schedule where they would be the charge nurse as seldom as one shift every two weeks, the hospital could turn two-thirds of its staff nurses into supervisors, leaving fewer than 60 out of 180 nurses free to join the union. As Comedy Central's Stephen Colbert jokingly suggested, the government thinks the answer to labor-management harmony is to make everyone a supervisor -- or at least to call everyone a supervisor.

Everything about this one-sided legal decision is wrong, starting with the amendment to the act that the board was interpreting.

The provision in question denies supervisors the right to belong to a union or to have any of the protections of the labor law. Why? Because back in 1947 Congress thought unions had too much power and that keeping supervisors out of unions would weaken them and change the balance of power between management and labor.

Unfortunately, it worked. Partly because of the 1947 amendments, but also because of globalization and other economic and political changes, unions have far less power today than they did at the end of World War II. Most notably, a far smaller share of the workforce has union representation than at the peak of unions' power and influence.

In 1948, 31 percent of the workforce was unionized, versus 12.5 percent today. As unionization has declined, so has worker bargaining power. The incomes of families in the middle fifth have fallen from a 17.4 percent share of the economy in 1950 to 15.3 percent in 2004. That 2-percent loss adds up to more than \$119 billion in lost income, a whopping \$7,500 per family.

The middle-class squeeze is pinching harder and harder as families try to stretch stagnant incomes to cover ever more expensive housing, health care, education and energy costs.

No single change would make a more lasting difference in their standard of living than a healthier, stronger labor movement. Even with unionization at record lows, union workers earn, on average, nearly 15 percent more than nonunion workers in the same occupations. The union advantage is much greater for some groups, such as Hispanic men, who earn 25 percent more when they belong to unions.

Unions lifted middle-class wages on their broad shoulders for most of the 20th century, but as they shrink in size and strength, so does the ability of average Americans to earn a fair share of our nation's wealth and income.

When government intervenes to deny union rights to millions of workers, as in Oakwood and other recent cases, it is choosing to tilt the balance of power ever further against the average family.

Removing 800,000 nurses from the labor law's protections -- and perhaps 8 million employees in all -- will seriously weaken union power and leave most workers with even less leverage to win better pay and working conditions.

Congress set this pendulum swinging back in 1947. It's time for Congress to take another look at the balance of power and find ways to restore the best means we have for achieving a fair sharing of profits and income -- collective bargaining and employees' full freedom of association and self-organization.

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Ross Eisenbrey is vice president and the director of Policy at the Economic Policy Institute in Washington, D.C.

[ POSTED TO *VIEWPOINTS* ON OCTOBER 31, 2006. ]

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## **Union Avoidance: For Non-Union and Unionized Workplaces**

The seminar is from 9:00 a.m. to 4:00 p.m. with registration at 8:30 a.m.:

- **Tuesday, March 6, 2007**, at the Michigan Chamber of Commerce in Lansing  
[Click here for directions.](#)
- **Wednesday, March 7, 2007**, in Grand Rapids, at the Airport Hilton  
[Click here for directions.](#)
- **Thursday, March 8, 2007**, in Novi at the Wyndham Garden Hotel  
[Click here for directions.](#)

With the new anti-business legislature at the state and federal levels, Unions are committed to using their leverage to reverse the unabated decline in union membership. Top union-sponsored legislative priorities include the pending Employee Free Choice Act which would force employer recognition of unions based solely on a card majority. The stakes are high and unions have no choice but to push for new union members or continue their decline.

This one-day, comprehensive seminar is for non-union employers that want to learn how to build and maintain a positive union-free workplace and for employers with unions that want to better understand their employees' rights and how to protect them. Get the answers you need from attorneys at The Fishman Group, a nationally-acclaimed labor and employment law firm.

### **AGENDA**

#### **General Session:**

##### **Know What Unions Mean in the Workplace**

- Understanding the business of Unions and their preference in the law
- Why Unions, as a business, are in trouble
- New strategies designed by Unions to rebuild the union business, including political changes such as the Employee Free Choice Act
- What obligation to bargain means to Unions, and how they use it
- How unions organize, and why employees are organized
- Knowing the Union advantage and overcoming it: short and long-range strategies

#### **Breakout Sessions**

Session 1: Maintaining A Positive Union-Free Workplace. What employers can do and say to avoid unions

- Warning signs of a union organizing drive and what to look for
- Finding a quick solution to a new union organizing campaign
- What to do after the election petition is filed
- Presenting the employer campaign: what works, what doesn't
- Dealing with the NLRB in an election campaign

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- Finding answers to remaining union-free

## Session 2: Restoring Employee Rights in A Unionized Workplace. What Employers can do and say to protect employee rights

- Understanding the real meaning of a union security contract
- Securing the employees' right to resign union membership without fear of discharge
- Reducing the employees' amount of mandated union financial support, despite union resistance
- Eliminating the employees' obligation to pay or provide any union financial support through the deauthorization process
- Protecting the employees' right to throw the union out through the process of decertification

## EXPERT PRESENTERS

**Steven J. Fishman** is President and Senior Principal Attorney of The Fishman Group in Bloomfield Hills, Michigan, a leading labor and employment law firm representing management nationwide in both the public and private sections. A private practice attorney for more than 39 years, Mr. Fishman has earned national recognition as an author, lecturer, and attorney for management.

**Donald H. Scharg** is a principal at The Fishman Group and a member of the Michigan Chamber Board of Directors. He speaks and writes on wrongful discharge, employment discrimination, sexual harassment, handicap discrimination, workplace misconduct, employee relations, remaining union-free, contract negotiations, and substance abuse testing.

**Maureen Rouse Ayoub** is a partner at The Fishman Group. In private practice she has represented employers in State and Federal Court, and the Equal Employment Opportunity Commission, Michigan Department of Civil Rights, National Labor Relations Board, and the Michigan Department of Labor & Economic Growth, Wage & Hour Division Detroit.

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**Member Discount:** Deduct \$25, from the registration fee, per person if your organization is a member of the Michigan Chamber of Commerce. (*Membership will be verified; if you're unsure of your company's membership status, please call 1-800-748-0344.*)

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**House Labor Committee  
Michigan House of Representatives  
February 27, 2007  
Testimony of Chris Fisher, Executive Vice President  
Associated Builders and Contractors of Michigan**

Good Morning Chairman Miller and members of the Committee. Thank you for the opportunity to be here today. My Name is Chris Fisher and I am the Executive Vice President of Associated Builders and Contractors of Michigan. I appear before this committee in opposition to HR 21.

The right of the American worker to freely and voluntarily join with their co-workers and organize or join a labor union free of coercion or intimidation is a fundamental right that should never be infringed upon.

However, this resolution stomps all over that right by opening the door to coercion, intimidation, fraud and abuse by eliminating the democratic principle of a secret ballot election.

As elected officials you were all elected via a secret ballot election. Indeed, this is a cornerstone of American Democracy and one which should never be imposed upon—least of which by a democratically elected body.





HR 21 would urge Congress to replace private, secret-ballot elections—the preferred and statutorily provided method for determining whether employees want a union to represent them—with a so-called “card check” system.

Under the “card check” process, employees are forced to indicate their choice of whether to join a union by having to sign a card in front of their co-workers, employers and union organizers.

The very fact that they must sign this card out in the open deprives workers of the freedom and protection afforded them in a secret ballot election by infringing upon their fundamental right to make an honest, private decision free of even the possibility of coercion and abuse.

Clearly, this is a step in the wrong direction as it will trample the rights of workers everywhere.

Members of this committee, there is a reason that this country embraces a secret ballot. After all, we send election inspectors all around the world to ensure free and fair elections. Why on earth would we ever want to infringe upon that here at home?



The National Labor Relations Act (NLRA) allows employees to determine whether or not they choose to be represented by a union through secret ballot elections held by the National Labor Relations Board (NLRB). To ensure a fair election, free of employer and union coercion, the NLRB follows strict procedures that guarantee a fair election, free of fraud, where employees may cast their vote confidentially and freely.

Under current law governing these elections, an NLRB agent is present and oversees the entire voting process and ensures that neither the employer nor the union can determine or interfere with how an individual employee votes.

This is the way it should continue to be. Yet this resolution is a dangerous departure from this responsible and worker-friendly method presently used.

It is for this reason that research is showing that a vast majority of Americans are adamantly opposed to overturning the current system with a card check system. In fact, I am including with my testimony today a public research poll that clearly and convincingly demonstrates this.



In the poll, which had a margin of error of 3.1 percent, 1,000 likely general election voters, including a substantial over-sample of 400 union households, were interviewed. The results are quite telling:

Nine in ten voters (89%) believe having a federally supervised secret ballot election is the best way to protect the individual rights of workers. Only 6% thinks the Employee Free Choice Act's card signing process is better.

Honorable Committee Members, forcing employees to cast their vote in front of their employers, union organizers, and their and fellow employees is a recipe for massive coercion, intimidation and reprisal.

I urge you to oppose this undemocratic measure in order to ensure the right of employees to a private, secret-ballot election in the workplace.

I would like to thank you Mr. Chairman and members of the House Labor Committee for the privilege to be here today. I would be happy to take any questions you or your fellow committee members may have.



### Americans Want To Protect A Worker's Right To A Federally Supervised Private Ballot Election When Deciding Whether To Organize A Union

Americans almost unanimously believe that workers should continue to have the right to have a federally supervised private ballot election when deciding whether to organize a union. Conversely, an overwhelming majority opposes the Employee Free Choice Act, which would replace private ballots election with a process that would make public how each worker votes. The strong voter sentiment to protect a worker's right to a federally supervised private ballot election is evident among all voter demographics including party affiliation and union households.

Voters feel so strongly about this issue that they indicate they will hold members of Congress accountable for their position during next year's elections. Voters are overwhelmingly less likely to vote for a member of Congress who votes in favor of the Employee Free Choice Act. On the other hand, voters are very likely to rally behind and vote for a member of Congress who votes to protect a worker's right to a private ballot election.

Almost 9 in 10 voters (87%) agree that "every worker should continue to have the right to a federally supervised secret ballot election when deciding whether to organize a union".

*Please tell me whether you agree or disagree with the following statement? "Every worker should continue to have the right to a federally supervised secret ballot election when deciding whether to organize a union."*

	Total	Rep.	Dem.	Ind.
Agree	87%	87%	89%	84%
Disagree	9%	9%	6%	12%

Four in five voters (79%) oppose the "The Employee Free Choice Act", which would replace a federally supervised secret ballot election with a process that requires a majority of workers to simply sign a card to authorize organizing a union.

*There is a bill in Congress called the Employee Free Choice Act which would replace a federally supervised secret ballot election with a process that requires a majority of workers to simply sign a card to authorize organizing a union and the workers' signatures would be made public to their employer, the union organizers and their co-workers. Do you support or oppose Congress passing this legislation?*

	Total	Rep.	Dem.	Ind.
Support	14%	13%	16%	15%
Oppose	79%	80%	78%	80%

When asked to make a choice whether a worker's vote to organize a union should remain private or be public information, 9 in 10 voters (89%) say it should remain private.

*With a federally supervised secret ballot election, each worker's ballot remains private. With the card signing process, the information would be made public and union organizers, employers and co-workers would know how each worker voted. In deciding whether to organize a union, do you think a worker's vote should remain private or be public information?*

	Total	Rep.	Dem.	Ind.
Private	89%	89%	91%	84%
Public Information	7%	7%	6%	11%





Nine in ten voters (89%) believe having a federally supervised secret ballot election is the best way to protect the individual rights of workers. Only 6% thinks the Employee Free Choice Act's card signing process is better.

*In your opinion, which election process is better to prevent interference or intimidation by employers or labor unions?*

1. *Having a process where a union is organized if a majority of workers simply sign a card and the workers' signatures are made public to their employer, the union organizers and their co-workers.*
2. *Having a federally supervised secret ballot election where workers privately vote yes or no on whether to authorize union representation.*

	Total	Rep.	Dem.	Ind.
Secret Ballot	89%	88%	90%	86%
Sign Card	6%	5%	6%	8%

Seven in ten voters (70%) say that they would be less likely to vote for a member of Congress who voted in favor of taking away a worker's right to have a federally supervised secret ballot election to decide whether to organize a union.

*Would you be more likely or less likely to vote for a member of Congress who voted in favor of taking away a worker's right to have a federally supervised secret ballot election to decide whether to organize a union? If it would make no difference, just say so.*

	Total	Rep.	Dem.	Ind.
More Likely	8%	7%	9%	11%
Less Likely	70%	73%	70%	65%
No Difference	16%	16%	16%	19%

**Methodology:** This poll of 1,000 likely general election voters in the United States was conducted between January 28-31, 2007. An oversample of 120 union households was conducted, which brings the combined total of union households to 400. All interviews were conducted via telephone by professional interviewers. Interview selection was random within predetermined election units – in this case, the fifty states. These units were structured to correlate with actual voter turnout in a general election. This poll of 1,000 likely general election voters has an accuracy of +/- 3.1% at a 95% confidence interval. The 400 sample of union households has an accuracy of +/- 4.9% at a 95% confidence interval.





To: Honorable Members of the House Labor Committee

From: Charlie Owens, State Director

Date: February 27, 2007

Re: House Resolution 21 memorializing Congress to enact HR 800

We are writing to ask that you do not support House Resolution 21 which asks Congress to pass HR 800, the misnamed Employee Free Choice Act (EFCA), or "card check" legislation. This legislation is an effort by organized labor to seek union recognition outside of the long protected private-ballot process. They prefer "card check" elections, where employees are forced to cast their vote in front of union organizers and fellow employees who support unionization. Employees would be subject to intimidation, misinformation, coercion and other union tactics that would ultimately pressure them into signing authorization cards. A more apt description of this proposed act would be the "Employee NO Choice Act."

How does this legislation affect small business?

- The bulk of union organizing targets small business. For the fiscal year ending September 30, 2005, the NLRB conducted 2649 representation elections. More than 20 percent of these secret-ballot elections involved bargaining units of fewer than 10 employees and a full 70 percent of these elections involved bargaining units of fewer than 50 employees.
- Organizing by card check radically initiates unionizing small businesses from the outside, not internally by employees themselves.
- Mandates compulsory, binding arbitration on the employer and the employees as part of the collective bargaining process. A third party, government official would make labor contract decisions within 30 days of mediation that are binding upon both parties. This would mean that the small-business owner would have no real voice in the union contract shaping their own business.

Why do unions desperately want to avoid an election and skirt the democratic secret ballot process? Research shows that secret-ballot voting produces a union victory 54% of the time and the card-check system produces a union victory 90% of the time.

To rob employees of the right to a secret ballot election to determine whether or not they want to be represented by a union is unconscionable and undemocratic. We urge you not to report this resolution out of committee.

Thank you for your support of small business.

